

1 delivered either by hand or certified mail, return receipt requested, to the
2 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
3 03301. Such hearings will be scheduled within 10 days of the request. If the
4 Respondent fails to appear at the hearing after being duly notified, such
5 person shall be deemed in default, and the proceeding may be determined against
6 the Respondent upon consideration of the Order to Show Cause, the allegations
7 of which may be deemed to be true.

8 If the Respondent fails to request a hearing within 30 calendar days of
9 receipt of such order or reach formal settlement with the Department within
10 that time frame, then such person shall likewise be deemed in default, and the
11 orders shall, on the thirty-first day, become permanent, and shall remain in
12 full force and effect until and unless later modified or vacated by the
13 commissioner, for good cause shown.

14 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

15 The Staff Petition dated November 16, 2007 (a copy of which is attached
16 hereto) is incorporated by reference hereto.

17 **ORDER**

18 WHEREAS, finding it necessary and appropriate and in the public
19 interest, and consistent with the intent and purposes of the New Hampshire
20 banking laws, and

21 WHEREAS, finding that the allegations contained in the Staff Petition,
22 if proved true and correct, form the legal basis of the relief requested,

23 It is hereby ORDERED, that Respondent Full Circle Mortgage LLC shall
24 show cause why:

25 1. Administrative penalties of \$2,500.00 should not be imposed;

and

2. Respondents license should not be revoked; and

It is further ORDERED, that

3. Respondent Timothy Miller shall show cause why administrative penalties of \$2,500.00 should not be imposed; and

4. Respondent Marianne Teixeira shall show cause why administrative penalties of \$2,500.00 should not be imposed; and

It is hereby ORDERED that:

5. Respondent Full Circle Mortgage LLC must immediately comply with all examination requests, including on-site review; and

6. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered, license revocation and administrative penalties imposed upon the defaulting Respondent.

SIGNED,

Dated: 11/16/07

/s/
PETER C. HILDRETH
BANK COMMISSIONER

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1 unclaimed.

2 7. The Examiner in Charge (hereinafter "EIC") contacted the
3 Respondent several times via telephone and electronic mail in an
4 attempt to arrange a time to conduct the on-site examination.
5 The Respondent stated that it was moving its operations and the
6 EIC was unsuccessful in getting a mutually convenient date from
7 the Respondent for the examination.

8 8. To date the Respondent has not given the Department the
9 opportunity for an on-site examination and has not properly
10 notified the Department of its change in location.

11 9. On November 15, 2007 Respondent Teixeira indicated she had
12 purchased Respondent Miller's share of the business, had all the
13 files in her possession and indicated a continued reluctance to
14 comply with examination requests.

15
16 **ISSUES OF LAW**

17 The staff of the Department, alleges the following issues of law:

- 18 1. The Department realleges the above stated facts in paragraphs 1
19 through 9.
- 20 2. The Department has jurisdiction over the licensing and
21 regulation of persons engaged in mortgage broker activities
22 pursuant to NH RSA 397-A:3.
- 23 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
24 Department may examine the business affairs of any licensee or
25 any other person, whether licensed or not, as it deems necessary
to determine compliance with this Chapter and the rules adopted

1 pursuant to it and with the Consumer Credit Protection Act, as
2 amended (15 U.S.C. 1601 et seq.). In determining compliance,
3 the Department may examine the books, accounts, records, files,
4 and other documents or matters of any licensee or person. RSA
5 397-A:12 further requires every person being examined, and all
6 of the officers, directors, employees, agents, and
7 representatives of such person shall make freely available to
8 the commissioner or his examiners, the accounts, records,
9 documents, files, information, assets, and matters in their
10 possession or control relating to the subject of the examination
11 and shall facilitate the examination. The Respondents violated
12 this provision by failing to facilitate the on-site examination.

13 4. RSA 397-A:21 IV provides that any person who, either knowingly
14 or negligently, violates any provision of Chapter 397-A, may
15 upon hearing, and in addition to any other penalty provided for
16 by law, be subject to an administrative fine not to exceed
17 \$2,500, or both. Each of the acts specified shall constitute a
18 separate violation, and such administrative action or fine may
19 be imposed in addition to any criminal penalties or civil
20 liabilities imposed by New Hampshire Banking laws.

21 5. RSA 397-A:21 V provides that every person who directly or
22 indirectly controls a person liable under this section, every
23 partner, principal executive officer or director of such person,
24 every person occupying a similar status or performing a similar
25 function, every employee of such person who materially aids in
the act constituting the violation, and every licensee or person

1 acting as a common law agent who materially aids in the acts
2 constituting the violation, either knowingly or negligently, may,
3 upon notice and opportunity for hearing, and in addition to any
4 other penalty provided for by law, be subject to suspension,
5 revocation, or denial of any registration or license, including
6 the forfeiture of any application fee, or the imposition of an
7 administrative fine not to exceed \$2,500, or both. Each of the
8 acts specified shall constitute a separate violation, and such
9 administrative action or fine may be imposed in addition to any
10 criminal or civil penalties imposed.

11 **RELIEF REQUESTED**

12 The staff of the Department requests the Commissioner take the following
13 Action:

- 14 6. Find as fact the allegations contained in section I of this
15 petition;
- 16 7. Make conclusions of law relative to the allegations contained
17 in section II of the this petition;
- 18 8. Order Respondent FC to Show Cause why its license should not be
19 revoked;
- 20 9. Assess fines and administrative penalties in accordance with
21 RSA 397-A:21, for violations of Chapter 397-A, in the number
22 and amount equal to the violations set forth in section II of
23 this petition against each of the Respondents; and
- 24 10. Take such other administrative and legal actions as necessary
25 for enforcement of the New Hampshire Banking Laws, the
protection of New Hampshire citizens, and to provide other

equitable relief.

RIGHT TO AMEND

The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action.

Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

/s/
James Shepard
Staff Attorney

11/16/07
Date